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Filed : December 10, 2000

REMARKS

Reconsideration and allowance of the above-referenced application are respectfully requested.

Claims 21-23 and 25-36 stand rejected under 35 USC 102b as allegedly being anticipated by Rothman '984 (Rothman).

Initially, Rothman 984 is not in fact prior art, since it was actually filed on December 13, 2000, after the December 10, 2000 filing date of the present application. Rothman's provisional filing, provisional application 60/208521, is in fact prior art, however. A copy of that provisional application is attached to this amendment as Exhibit 1. While this provisional application is in fact prior art, the cited '984 is not prior art. Rothman's provisional application will be referred to herein as '521.

In order to demonstrate the scope and contents of the prior art, '521 will be described first. '521 describes that a user may purchase branded items over the Internet. A user registers (see page 2 beginning line 13,) and then the user can view and purchase products. Page 3 beginning line 8 describes that the user can order products through the website.

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Page 3 lines 14-18 of '521 describes that the ordered item can be distributed to local distributors "upon receipt of an off-line purchase request". This allows the user to pick up the product at the local distributor and pay there. The user can also customize the product, and the local distributors can register so that information about those local distributors can be provided see page 4 lines 3-12. Page 5 lines 12-16 describes inventory information.

Beginning at page 5, line 17, it '521 describes that a product may be returned at the local distributor, and then resold.

Pages 7-10 describes in general the computer that is used, and pages 10-11 describe the databases including inventory databases. Page 15 describes purchasing an item. The user can select product information (see page 15 lines 10-16), and query the system to determine availability of the product. Two different kinds of purchase of the product can be carried out: online and off-line see page 16. An audit and compensation process is depicted page 17 beginning line 9.

In fact, 521 does not teach or disclose shipping from more than one order fulfillment location. 521 contemplates either an online or off-line shipping technique. The online shipping technique ships from a central area, (at least there is no disclosure in 521 that the online operation ships from anything other than a

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central shipping system). The off-line technique, on the other hand, allows the user to pick up the item at a local distributor. There is no disclosure in Rothman '521 that the local distributor mails the item.

The online purchase enters an address to which the product is delivered. The off-line purchase allows the user to pick it up at a distributor. There is no disclosure that the local distributor is used to mail the item to the user, and in fact quite the opposite. Only the off-line technique, where the user picks up an item locally, has any disclosure whatsoever of choosing a local distributor. All of the other techniques, specifically the online technique, has absolutely no disclosure of the claimed operation.

The advantage of this kind of system as claimed is that different distributed areas can be used to send information to a user. Moreover, this is in no way disclosed by the cited prior art.

As evident from the above, therefore, nothing in 521 discloses "determining one of a plurality of different order fulfillment locations **to send said at least one product to said customer**" (emphasis added). Note that claim 21 also requires sending contents "to the customer, using the shipping method".

Therefore, to summarize the above, there is no disclosure in the cited prior art of "sending contents from said order from said one of said order fulfillment

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locations based on said determining". Therefore, and for these reasons, claim 21 should be allowable over the cited prior art, along with the claims which depend there from.

Claim 23 for example defines that the determining comprises sending from an order fulfillment location that is physically closest to the customer.

As described above, nothing in 521 discloses sending the product from one of plural different order fulfillment locations; much less one which is physically closest to the customer. 521 contemplates only a single order fulfillment location. Claim 23 should hence be additionally allowable.

Claim 27 defines rebranding the order at the order fulfillment location. Admittedly, 521 contemplates that a message or personalization can be associated with the product, see for example page 16 lines 12-20. However, this is a personalization, not a rebranding. The rebranding allows an order fulfillment location to serve information from multiple different brands by rebranding the items. This is in no way disclosed by the cited prior art and is hence independently allowable.

Claim 29 specifies determining product trends based on geographical territory. Again there is a disclosure of maintaining inventory information, but no

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disclosure in 521 of product trends as a function of geographical location. See pages 17-18 of 521. Claim 29 should be independently patentable.

Furthermore there is nothing about demographics as defined in claim 30. Claim 30 should be independently patentable.

Claim 31 defines a method of reading sending a product to a consumer, which includes rebranding the order with a name associated with the server. The personalization set forth above has nothing to do whatsoever with rebranding using a name associated with the server. Therefore, claim 31 should be allowable for these reasons as well as on their own merits.

The dependent claim should be allowable for reasons discussed above with respect to the respective independent claims.

Claim 34 should be allowable for reasons discussed above, since it specifies "determining one of a plurality of different order fulfillment locations to send said at least one product to said consumer, and sending information to said one order fulfillment location, indicating that said order should be sent to said consumer using a shipping method" This is not in any way disclosed or suggested by the cited prior art.

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Claims 35 and 36 refer to receiving a name and rebranding, which should be allowable for reasons discussed above. For each of these reasons, all of the claim should be in condition for allowance.

Claim 24 was rejected under 35 USC 102 as being obvious over Rothman in view of Borders. This contention is further respectfully traversed.

Claim 24 defines that the order fulfillment location determination carries out a determination of finding a location (from among the various locations) that is a specified mailing time to the consumer. The rejection admits that this is not disclosed or suggested by Rothman. Borders shows a number of stores and servers related with those stores. While Borders shows that a user can set a specified delivery destination day, this does not disclose that this will set different different locations to mail the items. Basically, the user can select when they want the delivery to occur, and this will relate to that kind of delivery method which is used. See Borders' paragraph 145 which specifies the delivery routes and stops, rather than specifying a different item part or whatever to send the information from. In fact, the distribution center describes beginning paragraph 221 discloses nothing about a number of different distribution centers and certainly nothing about the specific claimed feature that order fulfillment location from the plurality of order

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fulfillment locations based on a specified mailing time to the user. Hence the combination of Rothman in view of Borders shows a Rothman type system with Borders' teaching of different delivery techniques. There is no disclosure of a sending from one of different areas. Claim 24 should hence be further allowable.

It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

For all of these reasons, it is respectfully suggested that all of the claims should be in condition for allowance. A formal notice of allowance is hence respectfully requested.

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If the Examiner believes that communications such as a telephone interview or email would facilitate disposal of this case, the undersigned respectfully encourages the Examiner to contact the undersigned.

Recognizing that Internet communications are not secure, I hereby authorize the USPTO to communicate with me concerning any subject matter of this application by electronic mail (using the email address harris@schiplaw.com). I understand that a copy of these communications will be made of record in the application file.

Please charge any fees due in connection with this response, (other than those concurrently paid via EFS), to Deposit Account No. 50-4376, small entity.

Respectfully submitted,

Date: 11/20/2008 (resubmission) /Scott C Harris/
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